

ORIGINAL

COMMISSIONERS
DOUG LITTLE - Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

OPEN MEETING ITEM



0000172612

ARIZONA CORPORATION COMMISSION

DATE: August 15, 2016
DOCKET NOS.: W-01445A-05-0700
WS-01775A-05-0700

Arizona Corporation Commission

DOCKETED

AUG 15 2016

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Sasha Paternoster. The recommendation has been filed in the form of an Order on:

FRANCISCO GRANDE UTILITY COMPANY AND ARIZONA WATER COMPANY.
(EXTENSION OF TIME DEADLINE
CONTAINED IN DECISION NOS. 68654, 70450, 71688, 73517, AND 74782)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

AUGUST 24, 2016

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

SEPTEMBER 7, 2016 AND SEPTEMBER 8, 2016

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

JODI A. JERICH
EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 DOUG LITTLE – Chairman
4 BOB STUMP
5 BOB BURNS
6 TOM FORESE
7 ANDY TOBIN

8 IN THE MATTER OF THE JOINT APPLICATION
9 OF: (1) FRANCISCO GRANDE UTILITY
10 COMPANY, AN ARIZONA CORPORATION, TO
11 TRANSFER A PORTION OF ITS EXISTING
12 CERTIFICATE OF CONVENIENCE AND
13 NECESSITY TO ARIZONA WATER COMPANY,
14 AN ARIZONA CORPORATION; (2) ARIZONA
15 WATER COMPANY TO INCLUDE
16 CERTIFICATED AREA TO BE TRANSFERRED
17 BY FRANCISCO GRANDE UTILITY COMPANY
18 IN ARIZONA WATER COMPANY'S CASA
19 GRANDE CERTIFICATE OF CONVENIENCE AND
20 NECESSITY.

DOCKET NO. W-01445A-05-0700
DOCKET NO. WS-01775A-05-0700

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 68654, 70450, 71688,
73517, AND 74782

21 Open Meeting
22 September 7 and 8, 2016
23 Phoenix, Arizona

24 **BY THE COMMISSION:**

25 * * * * *

26 Having considered the entire record herein and being fully advised in the premises, the Arizona
27 Corporation Commission ("Commission") finds, concludes, and orders that:

28 **FINDINGS OF FACT**

1. On October 4, 2005, Francisco Grande Utility Company ("Francisco") and Arizona
Water Company ("AWC") jointly filed an application with the Commission to transfer a portion of
Francisco's Certificate of Convenience and Necessity ("CC&N") to AWC and for AWC to include the
same area in AWC's Casa Grande CC&N.

2. On April 12, 2006, the Commission issued Decision No. 68654 approving the joint
application of AWC and Francisco. Pursuant to Commission Decision No. 68654, AWC was required
to file, among other things, the following compliance items:

- Copies of the Arizona Department of Environmental Quality's Approval to

Construct ("ATC") for facilities needed to serve the requested transfer areas within two years of the effective date of the Decision.

- A Notice of filing indicating AWC had submitted for Staff's review and approval, a copy of the fully executed main extension agreements ("MXAs") for water facilities for the requested transfer areas within two years of the effective date of the Decision.
- A copy of the developer's Certificate of Assured Water Supply ("CAWS") for the requested transfer areas where applicable or when required by statute, within two years of the effective date of the Decision.

3. On March 10, 2008, AWC filed a request for additional time, until April 12, 2010, to file the above compliance items.

4. On August 6, 2008, the Commission issued Decision No. 70450, approving AWC's request for additional time, until April 12, 2010, to comply with Decision No. 68654.

5. On November 23, 2009, AWC filed a request for determination of compliance with Decision No. 68654; or in the alternative, a request for additional time to comply with Decision No. 68654. In its request, AWC stated that the remaining compliance items are under the control of the developer; the developer has prepared a regional groundwater model for AWC's entire Pinal Valley Water Service Area to demonstrate the physical availability of groundwater in the transfer area; an application for a Physical Availability Demonstration ("PAD") was filed with the Arizona Department of Water Resources ("ADWR") in 2007, but had not yet been approved; the recession had significantly slowed the housing market; and because the PAD is a precursor to receiving a CAWS and no MXAs may be entered into without a CAWS, AWC needed more time to comply. AWC's request sought a determination that it had complied with the requirements of Decision No. 68654, or alternatively requested that AWC be granted an extension of time, until April 12, 2012, to comply with the Decision.

6. On January 19, 2010, AWC filed an amendment to its request which revised the map submitted for the transfer area; provided a copy of the approved ADWR PAD ¹ for the transfer area; withdrew a previously submitted MXA the Company erroneously believed included the transfer area; submitted a copy of the ATC application for the facilities needed in the transfer area; and withdrew its request for a determination of compliance with Decision No. 68654. AWC further requested to extend the compliance deadlines contained in Decision No. 68654, until April 12, 2012, for the ATC, MXAs,

¹ ADWR approved the PAD application for the transfer area on December 24, 2009.

1 and CAWS related to the transfer area.

2 7. On May 3, 2010, the Commission issued Decision No. 71688 which approved AWC's
3 request for an extension of time, until April 12, 2012, to file the ATC, MXAs, and CAWS related to
4 the transfer area.

5 8. On December 9, 2011, AWC filed a third request for additional time to file compliance
6 items, in which it sought an extension of time, until April 12, 2014, to comply with Decision No. 68654.
7 AWC's filing stated that the deep recession and real estate crash over the last several years created
8 extraordinary circumstances and, therefore, AWC needed additional time to comply with the Decision.
9 The filing included copies of the required ATC, leaving the MXAs and CAWS as the only remaining
10 compliance items.

11 9. On October 4, 2012, the Commission issued Decision No. 73517 which approved
12 AWC's request for an extension of time, until April 12, 2014, to file compliance items pursuant to
13 Decision No. 68654. The Decision put AWC and Francisco on notice that further requests for extension
14 of time to comply must demonstrate that extraordinary circumstances exist that warrant additional time.

15 10. On April 7, 2014, AWC filed its fourth Request for Additional Time for Compliance
16 Filing, which sought an extension of time until April 12, 2016, to comply with Decision No. 68654.
17 AWC stated extraordinary circumstances existed requiring an extension of time due to severe economic
18 conditions that continued to batter the Arizona real estate market, resulting in the delay of residential
19 and mixed-use development. AWC included an updated request for service from one of the property
20 owners within the requested transfer area.

21 11. On June 30, 2014, AWC docketed a Supplement to Request for Additional Time for
22 Compliance Filing. The filing included three additional ownership letters demonstrating the owners'
23 continuing need for service from AWC.

24 12. On July 2, 2014, AWC filed a Second Supplement to Request for Additional Time for
25 Compliance Filing, in which the final ownership letter relating to the transfer area was docketed.

26 13. On July 11, 2014, Staff filed a memorandum stating that it did not object to AWC's
27 request for an extension of time, until April 12, 2016, to comply with Decision No. 68654. Staff stated
28 that the April 7, 2014 application for extension of time was filed only five days before the April 12,

1 2014 due date and did not include all the ownership letters at the time of docketing. Therefore, Staff
2 recommended that AWC be required to file requests for extension of time at least 90 days prior to the
3 existing due date (in this or any other docket) and include 100 percent of the ownership letters when
4 the application for extension of time is originally filed (in this or any other docket).

5 14. On October 24, 2014, the Commission issued Decision No. 74782, approving AWC's
6 request for additional time, until April 12, 2016, to comply with Decision No. 68654.

7 15. On January 12, 2016, AWC filed its fifth Request for Additional Time for Compliance
8 Filing ("Request"). The Request sought an extension of time until April 12, 2018 or later, for the
9 provision of the remaining MXA and CAWS filings and included an updated request for service from
10 one property owner within the extension area. The Request stated that the extension request is the result
11 of the downturn in the real estate market and that, without the CC&N in place, the CAWS cannot be
12 applied for due to ADWR restrictions.

13 16. On May 3, 2016, AWC docketed a Supplement to Request for Additional Time for
14 Compliance Filing. The filing consisted of the remaining four service letters from the property owners
15 in the extension area.

16 17. On July 26, 2016, the Commission's Utilities Division ("Staff") filed a Memorandum
17 stating that it does not object to AWC's request for an extension of time to comply with Decision No.
18 68654. Staff considered a longer extension period based on recent 10 year extension periods that were
19 approved by the Commission, and AWC confirmed that it was the Company's intention to seek the
20 longer extension period as had been recently approved in other dockets. Therefore, Staff recommends
21 that the due date for the provision of the required MXA and CAWS be extended until to April 12, 2026.

22 **CONCLUSIONS OF LAW**

23 1. Arizona Water Company and Francisco Grande Utility Company are public service
24 corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and
25 40-282.

26 2. The Commission has jurisdiction over Arizona Water Company, Francisco Grande Utility
27 Company, and the subject matter described herein.

28 3. Arizona Water Company's request for an extension of time, until April 12, 2026, to

1 comply with the requirements outlined in Decision No. 68654, is reasonable and should be granted.

2 **ORDER**

3 IT IS THEREFORE ORDERED that Arizona Water Company and Francisco Grande Utility
4 Company are hereby granted an extension of time, until April 12, 2026, to comply with Commission
5 Decision No. 68654, by filing the Arizona Department of Environmental Quality's Approval to
6 Construct for the facilities needed to serve the transfer areas, a notice in this docket that Arizona Water
7 Company has submitted for Staff's review and approval a copy of a fully executed main extension
8 agreement for the water facilities in the transfer area, and a copy of the developer's Certificate of
9 Assured Water Supply for the transfer area, where applicable or when required by statute.

10 IT IS FURTHER ORDERED that Arizona Water Company and Francisco Grande Utility
11 Company shall file any future request for an extension of time at least 90 days prior to the existing due
12 date.

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1 IT IS FURTHER ORDERED that Arizona Water Company and Francisco Grande Utility
2 Company shall include 100 percent of the ownership letters with any additional request for an extension
3 of time.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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7

8 CHAIRMAN LITTLE

COMMISSIONER STUMP

9
10 COMMISSIONER FORESE

COMMISSIONER TOBIN

COMMISSIONER BURNS

11
12 IN WITNESS WHEREOF, I, JODI A. JERICH, Executive
13 Director of the Arizona Corporation Commission, have hereunto
14 set my hand and caused the official seal of the Commission to be
affixed at the Capitol, in the City of Phoenix, this
day of 2016.

15
16 JODI A. JERICH
17 EXECUTIVE DIRECTOR

18
19 DISSENT _____

20
21 DISSENT _____
SP:aw

1 SERVICE LIST FOR:

ARIZONA WATER COMPANY ANY
FRANCISCO GRANDE UTILTIY COMPANY

2 DOCKET NO.:

W-01445A-05-0700 AND WS-01775A-05-0700

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